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William Phelan

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EXAMINER

SWARTZ, JAMIE H

ART UNIT

PAPER NUMBER

3694

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

09/993,992

**Applicant(s)**

PHELAN ET AL.

**Examiner**

Jamie H. Swartz

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 7-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 04/01/2002
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a method for exchanging credit information, classified in class 705, subclass 35.
- II. Claims 7-33, drawn to an apparatus for pooling credit information, classified in class 235, subclass 180.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as obtaining, creating, loading, evaluating, formatting, and storing payment history.

Obtaining validation rules and validating the payment history. Performing a scrubbing routine on the payment history. See MPEP § 806.05(d).

3. Inventions II and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as

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pooling credit information with a data processing facility, a data validator, a record formatter, a storage device, a search engine, an evaluation generator, while using an accounting facility with a search engine to credit a usage fee. See MPEP § 806.05(d).

4. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

5. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Attorney David Read (39811) on November 29, 2006 a provisional election was made without traverse to prosecute the invention of group I, claims 1-6. Affirmation of this election must be made by applicant in replying to

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this Office action. Claims 7-33 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Specification***

8. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The term "validation rules" is not stated or defined in the specification.

### ***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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10. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 3 recites the limitation "validation rules" line 20. The phrase "validation rules" is vague and renders the claim indefinite because it is unclear what type of validation rules are being used, where the rules are being obtained from, and what the criteria for the rules are.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

13. Claims 1, 2, and 5 are rejected under 35 U.S.C. 102(a) as being anticipated by Wallace et al. (WO 200011586 A).

14. Referring to claim 1, Wallace teaches *obtaining payment history data from a member's accounting system* (page 1, lines 9-14). Wallace teaches *creating a payment history file that contains the payment history data and loading the payment history file through the Internet to a system database* (page 1, lines 15-24 and page 5, line 11 – page 6, line 8). Wallace teaches *evaluating the payment history data in the payment history file and formatting the payment history file into a payment history report* (page 2,

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lines 1-6 and page 4, lines 3-18). Wallace teaches *storing the payment history report in a centralized data repository* (page 3, lines 29 – page 4, line 9).

15. Referring to claim 2, Wallace teaches *creating scoring and modeling of customer information* (page 3, lines 29 – page 4, line 9).

16. Referring to claim 5, Wallace teaches *receiving search criteria for a customer* (page 13, lines 1-14 and page 1, lines 7-24). Wallace teaches *searching the payment history data for the matching customer* (page 1, lines 7-14). Wallace teaches *logging the search request* (page 1, lines 15-24). Wallace teaches *displaying the matching customer data, generating a payment history report for the matching customer, and displaying the payment history report* (page 1, line 7 – page 2, line 16 and page 3, line 29 – page 4, line 18).

### ***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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18. Claims 3, 4, and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al. (WO 200011586 A), as applied to claims 1 and 5 above, in view of Wheeler et al. (US 6,795,819 B2).

19. Referring to claim 3, Wallace teaches obtaining, creating, loading, evaluating, formatting, and storing payment history data. Though Wallace does not specifically teach *opening the payment history file* it is inherent to open a file before determining the type that it is. Wallace teaches *determining the payment history file type* (page 2, line 25 – page 3, line 6). Wallace teaches *obtaining validation rules for the specific payment history file type* (page 2, line 25 – page 3, line 15). Wallace teaches *loading the payment history file into a system database* (page 2, line 25 – page 4, line 18). Wallace does not teach a scrubbing routine or performing matching routines on the payment history data. Wheeler, however, teaches *performing a scrubbing routine on the payment history data* (col. 8, lines 10-34). Wheeler also teaches *performing matching routines on the payment history data, wherein new lenders are created if no matching lender is found in the system database, and at least one of adding or updating payment history data is in the system database is performed if a matching lender is found in the system database* (col. 5, lines 34-56) where the retailers are analogous to lenders. Though a retailer is not a lender per se, parallels can be drawn between a lender and a retailer. Wallace specifically discusses a consumer and commercial credit transaction database system (page 1, lines 3-4). Wheeler specifically discusses a database management system to be presented with data that maintains a high level of accuracy and reliability



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(col. 1, lines 16-19). Although Wheeler's invention relates more to an inventory system, when it comes to a bank or a lender, their inventory are their customers accounts, thereby it rendering Wheeler's art as analogous to that of Wallace. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Wallace to include a data scrubber and a matching routine to insure accuracy and non-redundancy. It is important that information in a database is cleaned because inaccurate data leads to improper and costly decisions. Non-redundant data is important because when you update your database to include all companies and history this too will lead to accurate decision making. Official notice is taken that the *scrubbing routine* was old and well known in the art of at the time of the invention. A scrubbing routine would be done on the data *to remove suspect payment history data*, as data cleansing is the act of detecting and correcting (or removing) corrupt or inaccurate records from a record set. Customer data has always contained errors and outdated values data scrubbing procedures predate the computer.

20. Referring to claim 4, Wallace teaches obtaining, creating, loading, evaluating, formatting, and storing payment history data. Wallace does not teach a scrubbing routine. Wheeler, however, teaches *performing a scrubbing routine on the payment history data further comprises the step of modifying the suspect payment history data based upon thresholds set by the member* (col. 8, lines 10-34). Wallace specifically discusses a consumer and commercial credit transaction database system (page 1, lines 3-4). Wheeler specifically discusses a database management system to be

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presented with data that maintains a high level of accuracy and reliability (col. 1, lines 16-19). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Wallace to include a data scrubber to insure accuracy and non-redundancy. It is important that information in a database is cleaned because inaccurate data leads to improper and costly decisions. Non-redundant data is important because when you update your database to include all companies and history this too will lead to accurate decision making.

21. Referring to claim 6, Wallace teaches receiving search criteria, searching the payment history, logging the search request, displaying the matching customer data, generating a payment history, and displaying a payment history report. Wallace teaches computing summary and scoring information (page 3, line 29 – page 4, line 9), including a high credit value (page 4, line 4-5). Though Wallace does not specifically teach a *total lease balance* he does teach a balance (page 4, line 4), however official notice is taken that lease balances are commonly tracked balances on a credit history since they provide good credit information on people who have rented a residence. Since Wallace's success relies on the accuracy of its maintained credit histories, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Wallace to specifically track total lease balances in order to more accurately score the credit of people who have a history of leasing a residence. Though Wallace does not specifically teach *total current payments* he does teach monthly payment amounts, charge off amount and date, and payment date (page 4,

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lines 5-6), however official notice is taken that total current payments are commonly tracked on a credit history since they show how much an individual owes to others which directly relates to the like hood that they would be able to pay back any borrowed money. Total current payments provide good credit information on the people who owe money. Since Wallace's success relies on the accuracy of its maintained credit histories, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Wallace to specifically track total current payments in order to more accurately score the credit of people who have current payments. Though Wallace does not specifically teach *a total number of times a customer had an overdue payment* he does teach when items are past due (page 4, line 4), however official notice is taken that total number of times a customer had an overdue payment is commonly tracked on a credit history since punctuality of payment in the past shows how responsible an individual is with their money and also relates to the like hood that they would pay back any borrowed money on time. Overdue payments provide good credit information on people who owe money. Since Wallace's success relies on the accuracy of its maintained credit histories, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Wallace to specifically track the total number of times a customer had an overdue payment in order to more accurately score the credit of people who have a history of not punctually paying back money. Wallace teaches displaying the summary information (page 4, lines 3-18).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie H. Swartz whose telephone number is (571) 272-7363. The examiner can normally be reached on 8:00am-4:30pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jamie Swartz  
January 2, 2007

*Susanna M. Diaz*  
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PRIMARY EXAMINER

*AU 3694*